

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

RAYMOND WALLS,	)	
	)	
Plaintiff,	)	4:06cv3082
	)	
vs.	)	ORDER
	)	ON INITIAL REVIEW
CORPORATION FOR NATIONAL AND	)	
COMMUNITY SERVICE,	)	
	)	
Defendant.	)	

This matter is before the court on filing no. 15, the Application for Leave to Proceed In Forma Pauperis ("IFP"), filed by the plaintiff, Raymond Walls; and filing no. 16, the plaintiff's Motion that the Marshal Serve Summons on the Plaintiff's Behalf. The plaintiff is eligible for the relief he seeks, and therefore, both motions are granted.

In filing no. 12, Chief Judge Joseph F. Bataillon noted that the defendant, an agency or instrumentality of the United States, had removed this action from the Small Claims Court of Lancaster County, Nebraska. Because the pleadings filed in Small Claims Court differ so significantly from those appropriate for this court, Judge Bataillon directed the plaintiff to file an Amended Complaint. Also, because of questions concerning sufficiency of service of process, Judge Bataillon directed the plaintiff to serve the defendant again and instructed him as to the correct method of service under Fed. R. Civ. P. 4(i).

Because the defendant removed the action to this court, the plaintiff had no obligation to pay a filing fee. The Clerk of Court appropriately issued summons forms to the plaintiff in accordance with Judge Bataillon's Memorandum and Order (filing no. 12). However, as the plaintiff informed the Clerk, he has no funds to pay for service of process. Therefore, he filed filing nos. 15 and 16. A motion to proceed IFP triggers the court's initial review of the plaintiff's pleadings. See 28 U.S.C. § 1915 - Proceedings in forma pauperis:

(e)(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that--

(A) the allegation of poverty is untrue; or

(B) the action or appeal--

(i) is frivolous or malicious;

(ii) fails to state a claim on which relief may be granted; or

(iii) seeks monetary relief against a defendant who is immune from such relief.

In his Amended Complaint (filing no. 14), the plaintiff states that he suffered adverse action by the defendant in connection with employment and/or an educational grant. I find that this case need not be dismissed on initial review. Because the plaintiff is now proceeding IFP, the U.S. Marshal will serve the defendant, after the plaintiff completes the appropriate forms.

IT IS THEREFORE ORDERED:

1. Filing nos. 15, the plaintiff's Application for Leave to Proceed IFP, and filing no. 16, the plaintiff's Motion that the Marshal Serve Summons, are granted.

2. The Clerk of Court shall send the plaintiff a copy of filing no. 12 and this order, as well as 3 Form USM-285s, to be completed in accordance with Fed. R. Civ. P. 4(i) regarding "[s]erving the United States, Its Agencies, Corporations, Officers, or Employees," for service of process on the United States.

3. The plaintiff shall complete the Form USM-285s as soon as possible, ideally within a week, and return them, together with the summons forms already issued, to the Clerk of Court.

4. Upon receipt of the summons and completed Form USM-285s, the Clerk shall forward the forms, together with copies of the Amended Complaint, to the U.S. Marshal for service on the United States.

5. The Marshal shall serve the United States, without payment of costs or fees; service may be by certified mail in the discretion of the Marshal.

6. The defendant shall answer or otherwise respond to the Amended Complaint within the appropriate period.

DATED this 21<sup>st</sup> day of July, 2006.

BY THE COURT:

s/ F. A. GOSSETT  
United States Magistrate Judge